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Right of peoples to self-determination

Cuba: draft resolution

Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

The General Assembly,

Recalling all of its previous resolutions on the subject, including resolution 66/147 of 19 December 2011, and Human Rights Council resolutions 15/12 of 30 September 2010,[1] 15/26 of 1 October 2010,[2] 18/4 of 29 September 2011,[3] and 21/8 of 27 September 2012,[4] as well as all resolutions adopted by the Commission on Human Rights in this regard,

Recalling also all of its relevant resolutions in which, inter alia, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit or use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling further the relevant resolutions and international instruments adopted by the General Assembly, the Security Council, the Economic and Social Council and the Organization of African Unity, inter alia, the Organization of African Unity Convention for the elimination of mercenarism in Africa,[5] as well as by the African Union,

Reaffirming the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, the territorial integrity of States, the self-determination of peoples, the non-use of force or of the threat of use of force in international relations and non-interference in affairs within the domestic jurisdiction of States,

[1] See *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 53A* (A/65/53/Add.1), chap. II.
[2] Ibid., chap. I.
[3] Ibid., *Sixty-sixth Session, Supplement No. 53A* and corrigendum (A/66/53/Add.1 and Corr.1), chap. II.
[4] Ibid., *Sixty-seventh Session, Supplement No. 53A* (A/67/53/Add.1), chap. III.
[5] United Nations, *Treaty Series*, vol. 1490, No. 25573.

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Reaffirming also that, by virtue of the principle of self-determination, all peoples have the right freely to determine their political status and to pursue their economic, social and cultural development and that every State has the duty to respect this right in accordance with the provisions of the Charter,

Reaffirming further the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[6]

Welcoming the establishment of the open-ended intergovernmental Working Group of the Human Rights Council with the mandate of considering the possibility of elaborating an international regulatory framework, including the option of elaborating a legally binding instrument on the regulation, monitoring and oversight of the activities of private military and security companies,

Recalling that regional consultations were held in all five regions from 2007 to 2011, in which participants noted that the enjoyment and exercise of human rights were increasingly impeded by the emergence of new challenges and trends relating to mercenaries or their activities and to the role played by private military and security companies registered, operating or recruiting personnel in each region, and expressing its appreciation to the Office of the United Nations High Commissioner for Human Rights for its support for the holding of the consultations,

Alarmed and concerned at the danger that the activities of mercenaries constitute to peace and security in developing countries, in particular in Africa and in small States,

Deeply concerned at the loss of life, the substantial damage to property and the negative effects on the policy and economies of affected countries resulting from criminal mercenary activities,

Extremely alarmed and concerned about recent mercenary activities in some developing countries in various parts of the world, including in areas of armed conflict, and the threat they pose to the integrity of and respect for the constitutional order of the affected countries,

Concerned at the alleged involvement of mercenaries, as well as employees of some private military and security companies with mercenary-related activities, in serious human rights violations, including summary executions, enforced disappearances, rape, torture, cruel, inhuman or degrading treatment, arbitrary arrests and detentions, arson, pillaging and looting,

Convinced that a comprehensive, legally binding international regulatory instrument is important for regulating private military and security companies and, in this regard, for taking measures to ensure their accountability for human rights violations and monitor their activities,

Convinced also that, notwithstanding the way in which they are used or the form that they take to acquire some semblance of legitimacy, mercenaries or mercenary-related activities are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of all human rights by peoples,

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[6] Resolution 2625 (XXV), annex.

1. *Acknowledges with appreciation* the work and contributions of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, including its research activities, and takes note with appreciation of its latest report;[7]

2. *Reaffirms* that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

3. *Recognizes* that armed conflict, terrorism, arms trafficking and covert operations by third Powers, inter alia, encourage the demand for mercenaries on the global market;

4. *Urges once again* all States to take the steps necessary and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training, protection or transit of mercenaries for the planning of activities designed to impede the right of peoples to self-determination, to destabilize or overthrow the Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right of peoples to self-determination;

5. *Requests* all States to exercise the utmost vigilance against any kind of recruitment, training, hiring or financing of mercenaries by private companies offering international military consultancy and security services, as well as to impose a specific ban on such companies intervening in armed conflicts or actions to destabilize constitutional regimes;

6. *Encourages* States that import the military assistance, consultancy and security services provided by private companies to establish regulatory national mechanisms for the registering and licensing of those companies in order to ensure that imported services provided by those private companies neither impede the enjoyment of human rights nor violate human rights in the recipient country;

7. *Emphasizes its utmost concern* about the impact of the activities of private military and security companies on the enjoyment of human rights, in particular when operating in armed conflicts, and notes that private military and security companies and their personnel are rarely held accountable for violations of human rights;

8. *Calls upon* all States that have not yet done so to consider taking the action necessary to accede to or ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;[8]

9. *Welcomes* the cooperation extended by those countries that received a visit by the Working Group and the adoption by some States of national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;

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[7] See A/67/340.

[8] United Nations, *Treaty Series*, vol. 2163, No. 37789.

10. *Condemns* recent mercenary activities in developing countries in various parts of the world, in particular in areas of conflict, and the threat they pose to the integrity of and respect for the constitutional order of those countries and the exercise of the right of their peoples to self-determination, and stresses the importance for the Working Group of looking into sources and root causes, as well as the political motivations of mercenaries and for mercenary-related activities;

11. *Calls upon* States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occur and to bring to trial those found responsible or to consider their extradition, if so requested, in accordance with domestic law and applicable bilateral or international treaties;

12. *Condemns* any form of impunity granted to perpetrators of mercenary activities and to those responsible for the use, recruitment, financing and training of mercenaries, and urges all States, in accordance with their obligations under international law, to bring them, without distinction, to justice;

13. *Calls upon* Member States, in accordance with their obligations under international law, to cooperate with and assist the judicial prosecution of those accused of mercenary activities in transparent, open and fair trials;

14. *Welcomes* the holding of the second session of the open-ended intergovernmental Working Group to consider the possibility of elaborating an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies, and expresses satisfaction at the participation of experts, including the members of the Working Group on the use of mercenaries, as resource persons at the above-mentioned session;

15. *Requests* the Working Group on the use of mercenaries to continue the work already done by previous Special Rapporteurs on the strengthening of the international legal framework for the prevention and sanction of the recruitment, use, financing and training of mercenaries, taking into account the proposal for a new legal definition of a mercenary drafted by the Special Rapporteur on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination in his report to the Commission on Human Rights at its sixtieth session;[9]

16. *Requests* the Office of the United Nations High Commissioner for Human Rights, as a matter of priority, to publicize the adverse effects of the activities of mercenaries on the right of peoples to self-determination and, when requested and where necessary, to render advisory services to States that are affected by those activities;

17. *Recommends* that all Member States, including those confronted with the phenomenon of private military and security companies, as contracting States, States of operations, home States or States whose nationals are employed to work for a private military and security company, to contribute to the work of the open-ended intergovernmental Working Group, taking into account the initial work done by the Working Group on the use of mercenaries;

18. *Urges* all States to cooperate fully with the Working Group on the use of mercenaries in the fulfilment of its mandate;

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[9] See E/CN.4/2004/15, para. 47.

19. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to continue to provide the Working Group with all the assistance and support necessary for the fulfilment of its mandate, both professional and financial, including through the promotion of cooperation between the Working Group and other components of the United Nations system that deal with countering mercenary-related activities, in order to meet the demands of its current and future activities;

20. *Requests* the Working Group to consult States and intergovernmental and non-governmental organizations in the implementation of the present resolution and to report, with specific recommendations, to the General Assembly at its sixty-eighth session its findings on the use of mercenaries to undermine the enjoyment of all human rights and to impede the exercise of the right of peoples to self-determination;

21. *Decides* to consider at its sixty-eighth session the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination under the item entitled "Right of peoples to self-determination".